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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/260,802	03/02/1999	STEVEN M. HOFFBERG	3459-11	6940

7590                    06/07/2004

MILDE HOFFBERG & MACKLIN  
INTELLECTUAL PROPERTY LAW  
10 BANK STREET  
SUITE 460  
WHITE PLAINS, NY 10606

[REDACTED] EXAMINER

VOELTZ, EMANUEL T

ART UNIT	PAPER NUMBER
2121	

DATE MAILED: 06/07/2004

27

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/260,802	HOFFBERG ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Emanuel T. Voeltz	2121	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 22 March 2004.
- 2a) This action is FINAL.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) \_\_\_\_\_ is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) \_\_\_\_\_ is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input checked="" type="checkbox"/> Other: <u>Non-Responsive</u> .       |

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## Examiner's Detailed Office Action

### Response to Amendment

The reply filed on March 22, 2004 is not fully responsive to the prior Office Action because of the following omission(s) or matter(s): 1) Applicant on page 37 of his response states that claims 35-65 are presented for examination and that claims 1-34 and 66-114 have been withdrawn from consideration. This matter is confusing because in the "Claims as Amended" section, beginning at page 2, applicant sets forth that claim 1-34 are cancelled, but claims 66-114 still appear to be present in the application. There is a direct conflict between what claims are still present in the application. 2) Applicant has failed to present arguments with respect to the 35 USC 102(b) rejection of claims 39, 41-46 and 48 in the response. Applicant is hereby requested to clarify these matters. See 37 CFR 1.111. Since the above-mentioned reply appears to be *bona fide*, applicant is given **ONE (1) MONTH or THIRTY (30) DAYS** from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).

### Correspondence Information

Any inquiries concerning this communication or earlier communications from the examiner should be directed to **Emanuel Todd Voeltz** who may be reached via telephone at

Art Unit: 2121

**(703) 305-4563.** The examiner can normally be reached Monday through Friday between the hours of 8:00 a.m. and 5:00 p.m. eastern standard time.

If you need to send an Official facsimile transmission, please send it to **(703) 872-9306.**

If you would like to send a Non-Official (draft) facsimile transmission the fax is **(703) 746-5104.**

If attempts to reach the examiner by telephone are unsuccessful, the Examiner's Supervisor, **Anthony Knight**, may be reached at **(703) 308-3179.**

Any response to this office action should be mailed to: **Director of Patents and Trademarks Washington, D.C. 20231.**

Moreover, hand-delivered responses should be delivered to the Receptionist, located on the **fourth floor of Crystal Park 11, 2121 Crystal Drive Arlington, Virginia.**

*Emanuel Todd Voeltz*  
Primary Patent Examiner  
Art Unit 2121  
United States Department of Commerce  
Patent & Trademark Office



EMANUEL TODD VOELTZ  
PRIMARY EXAMINER